

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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Creation of a Low)
Power Radio Service)
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MM Docket No. 99-25

RM-9208

RM-9242

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

COMMENTS OF NORTHEAST BROADCASTING COMPANY, INC.

Northeast Broadcasting Company, Inc. ("NEBCO"), by and through its counsel, and pursuant to Section 1.415 of the Commission's Rules, hereby files its Comments in the above-captioned proceeding concerning the Commission's proposed establishment of a low power radio service.

INTRODUCTION

In In the Matter of Creation of a Low Power Radio Service, FCC 99-6, released February 3, 1999 ("NPRM"), the Commission has sought comment on its proposal to establish rules authorizing the operation of low power FM ("LPFM") radio stations. The Commission stated that the decision to explore the implementation of LPFM was prompted by a desire to provide "a low-cost means of serving urban communities and neighborhoods as well as populations living in smaller rural towns and communities." NPRM, ¶ 1. The Commission's stated goals are to "address unmet needs for community-oriented radio broadcasting, foster opportunities for new radio broadcast ownership, and promote additional diversity in radio voices and program services." Id.

NEBCO submits that LPFM will not serve the public interest. The Commission's goals

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are well served by existing policies and the establishment of LPFM service will have unanticipated consequences, while ample alternatives exist to address the concerns which have prompted calls for LPFM service. As such, NEBCO urges the Commission to decline to establish LPFM service.

COMMENTS

NEBCO is the licensee of small market AM and FM radio stations in Vermont, New Hampshire and Massachusetts. As a small market broadcaster, NEBCO is very sensitive to alterations of the broadcast environment, particularly with regard to its listening audiences and advertising revenues.

The establishment of LPFM service will, without doubt, have adverse effects on small market broadcasters like NEBCO. NEBCO serves markets with a finite amount of listeners. Advertising dollars and rates in NEBCO's market are extremely responsive to audience share. Any diminution in NEBCO's listening audience caused by LPFM service will injure NEBCO's advertising revenues, inhibiting NEBCO's ability to provide quality locally-oriented service. This result will be exacerbated if commercial LPFM service is permitted, as NEBCO will face not only audience loss, but also direct loss of advertising revenue.

The quality of service provided by LPFM Stations will fall far short of that which broadcast audiences have come to expect from full-power Stations, both in terms of technological quality and content. The more modest resources available to LPFM Stations will determine the type of equipment used for the gathering and broadcast of programming, resulting in lower broadcast quality and signal strength. LPFM Stations will lack the resources to enable them to broadcast timely and accurate news, information, weather, and traffic. Full-power

Stations have both the resources and the efficiencies of scale to provide the content and signal that broadcast audiences have come to expect.

The continued provision of this high quality and highly responsive service is preserved by the active competition between full-power Stations in each market. In order to survive, these Stations must provide a service that most closely meets the needs of their listening public. Anything that is injurious to this competitive balance, such as the introduction of a heretofore unknown service, will upset this delicate balance, threatening and disrupting the well-tested local service provided to broadcast listeners.

Whatever benefits LPFM would have will not be widely available. Unlike full-power Stations, LPFM would not be available to mobile listeners outside of the home. This group is estimated as 61.7 percent of all radio listeners over 12 years of age.¹ Thus, a significant portion of the listening public will be deprived of whatever benefits LPFM has to offer, while LPFM's deleterious effects on advertising revenue and interference, to name two, would be writ large.

LPFM service should also be rejected so as to maintain the integrity of the broadcast spectrum as LPFM service will create substantial signal interference. In order to ensure the most efficient use of the broadcast spectrum with the least interference, present Commission rules dictate that distances far greater than a Station's service area must separate full-power Stations operating on the same channel, and Stations operating on adjacent channels must have sufficient separation. 47 C.F.R. § 73.207. Each new LPFM Station will make it that much more difficult to provide interference-free service, resulting in an increase in interference for many listeners.

¹ Radio Advertising Bureau, Radio Marketing Guide and Fact Book for Advertisers (1995).

This would not serve the public interest as it will deprive a great number of broadcast listeners of the benefit of full-power Stations in order to provide LPFM service only a few people can receive.

Existing Commission policy calls for the rejection of LPFM service. The Commission has previously stated that a 'Class A' FM Station operating with a minimum effective radiated power below 100 watts is an inefficient use of spectrum. Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations, 69 FCC 2d 240 (1987). This standard was reached to ensure that Stations serve a substantial number of listeners, providing news and information to an entire community, not just those in confined areas. Yet the Commission seeks comment on establishing three LPFM services, two at or below the 100-watt level. The potential listener reach of these LPFM Stations would be inconsistent with the Commission's policy regarding efficient use of the spectrum.

The Commission has confronted the LPFM issue before. The Commission previously decided that low power translator service, a service akin to LPFM service, was inefficient because of the Commission's commitment to providing "FM radio broadcast service in a manner that promotes program diversity while enhancing the incentive for efficient broadcast station development." Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations, 5 FCC Rcd 7212, 7219 (1990). The Commission's conclusions with regard to FM translators apply with equal force to LPFM service, requiring a similar result.

Additionally, the adoption of LPFM would have yet another effect, this time on the Commission itself. A torrent of administrative paperwork would be created by the adoption of LPFM, and the resultant need for its administration and regulation. Considering that the

Commission is already underfunded and deals with a deluge of paperwork as it is, the adoption of LPFM will add even more to the Commission's already heavy regulatory and enforcement burden and disrupt the processing of applications filed by existing broadcasters.

Alternatives exist to serve the Commission's stated reasons for exploring the establishment of LPFM service. Diversity concerns are best addressed through ownership rules, not the establishment of new service.² Those seeking the broadcast of specific events can seek time on existing full-power Stations via partnerships with current licensees, or through mechanisms such as Special Temporary Authority authorizations.³ And the Internet now provides a cheap and easy mechanism for individuals and groups to make audio resources available to the public. See, Web Radio: No Antenna Required, Wall Street Journal, July 28, 1999, at B1. One can expect that other technologies will provide additional means to make available even more diverse programming. In short, a wide variety of alternatives exists that will serve the Commission's stated goals better than the establishment of LPFM service, and without harm to existing broadcasters who face the potential competition of Internet broadcasting and satellite transmitted programming.

NEBCO submits that if LPFM is established, at all, it should be restricted to large-market broadcast areas. That way, its effects on advertising revenue will be minimized by the comparatively large broadcast audience and advertising pool. Additionally, LPFM should be restricted to non-commercial service so as to further minimize the adverse effects on the

² Chairman Kennard, in his July 29, 1999 speech to the National Counsel of La Raza, detailed an investment strategy that meets this goal without the need for LPFM service.

³ 47 C.F.R. § 73.1635 (1996).

advertising revenue of existing full-power commercial stations.

CONCLUSION

The Commission has stated its belief that LPFM would "respond to the increasing demand by the public for additional outlets of popular expression which could increase the diversity of voices, views, and sources of information and entertainment available to the American public." NPRM, ¶ 112. As shown above, these goals are presently being served by full-power Stations, and the continued provision of such service is ensured by competition. As for LPFM, the adverse effects of the service far outweigh any benefits that it may confer.

As the public interest will be adversely affected, Northeast Broadcasting Company, Inc. requests that the Commission decline to provide for the establishment of low power FM radio service.

Respectfully submitted,

**NORTHEAST BROADCASTING
COMPANY, INC.**

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